

The Honorable James L. Robart



11-CR-00422-PLAGR

FILED _____ ENTERED
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MAY - 9 2012

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

GURJIT SINGH SANDHU,

Defendant.

CASE NO. CR11-0422 JLR

PLEA AGREEMENT

14
15 The United States of America, by and through Jenny A. Durkan, United States
16 Attorney for the Western District of Washington, and Jerrod C. Patterson, Assistant
17 United States Attorney, Defendant, GURJIT SINGH SANDHU, and his attorney, Jeffrey
18 Robinson, enter into the following Agreement, pursuant to Federal Rule of Criminal
19 Procedure 11(c):

20 1. **The Charge(s).** Defendant, having been advised of the right to have this
21 matter tried before a jury, agrees to waive that right and enter his plea of guilty to the
22 following charge contained in the Indictment:

23 a. Conspiracy to Distribute Cocaine, as charged in Count 1, in violation
24 of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A), and 846. By entering
25 this plea of guilty, Defendant hereby waives all objections to the form of the charging
26 document. Defendant further understands that before entering his plea of guilty, he will be
27 placed under oath. Any statement given by Defendant under oath may be used by the
28 United States in a prosecution for perjury or false statement.

1 **2. Elements of the Offense.** The elements of the offense of Conspiracy to
2 Distribute Cocaine, as charged in Count 1, in violation of Title 21, United States Code,
3 Sections 841(a)(1) and (b)(1)(A), and 846, are as follows:

4 First, beginning on or about a date unknown, but within the last five years,
5 and continuing through on or about December 15, 2011, there was an agreement between
6 two or more persons to distribute cocaine; and

7 Second, the defendant joined in the agreement with the intent to further its
8 unlawful object or purpose.

9 **3. The Penalties.** Defendant understands that the statutory penalties for the
10 offense of Conspiracy to Distribute Cocaine, as charged in Count 1, are as follows:

11 a. Count 1 (Conspiracy to Distribute Cocaine): Imprisonment for up to
12 life, a mandatory minimum sentence of ten (10) years of imprisonment, a fine of up to ten
13 million and no/100 dollars (\$10,000,000), a period of supervision following release from
14 prison of at least five (5) years, and a special assessment of one hundred and no/100.
15 dollars (\$100). Defendant agrees that the special assessment shall be paid at or before the
16 time of sentencing.

17 Defendant understands that supervised release is a period of time following
18 imprisonment during which he will be subject to certain restrictions and requirements.

19 Defendant further understands that if supervised release is imposed and he violates one or
20 more of its conditions, Defendant could be returned to prison for all or part of the term of
21 supervised release that was originally imposed. This could result in Defendant's serving a
22 total term of imprisonment greater than the statutory maximum stated above.

23 Defendant understands that in addition to any term of imprisonment and/or
24 fine that is imposed, the Court may order him to pay restitution to any victim of the
25 offense, as required by law.

26 Defendant agrees that any monetary penalty the Court imposes, including the
27 special assessment, fine, costs, or restitution, is due and payable immediately and further

1 agrees to submit a completed Financial Statement of Debtor form as requested by the
2 United States Attorney's Office.

3 **4. Statutory Enhancements.** Defendant further understands that, in order to
4 invoke the statutory sentence set forth above, the United States must prove beyond a
5 reasonable doubt that the offense charged in Count One involved five (5) kilograms or
6 more of a mixture or substance containing a detectable amount of cocaine. Defendant
7 waives Defendant's right to require the United States to make this proof at trial and
8 stipulates that this plea of guilty includes Defendant's acknowledgment that the offense
9 involved five (5) kilograms or more of a mixture or substance containing a detectable
10 amount of cocaine.

11 **5. Rights Waived by Pleading Guilty.** Defendant understands that by
12 pleading guilty, he knowingly and voluntarily waives the following rights:

- 13 a. The right to plead not guilty and to persist in a plea of not guilty;
14 b. The right to a speedy and public trial before a jury of his peers;
15 c. The right to the effective assistance of counsel at trial, including, if
16 Defendant could not afford an attorney, the right to have the Court appoint one for her;
17 d. The right to be presumed innocent until guilt has been established
18 beyond a reasonable doubt at trial;
19 e. The right to confront and cross-examine witnesses against Defendant
20 at trial;
21 f. The right to compel or subpoena witnesses to appear on his behalf at
22 trial;
23 g. The right to testify or to remain silent at trial, at which trial such
24 silence could not be used against Defendant; and
25 h. The right to appeal a finding of guilt or any pretrial rulings.

26 **6. Ineligibility for Benefits.** Defendant understands that by pleading guilty to
27 a felony drug offense, Defendant will become ineligible for certain food stamp and Social
28 Security benefits under Title 21, United States Code, Section 862a.

1 **7. United States Sentencing Guidelines.** Defendant understands and
2 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
3 under the United States Sentencing Guidelines, together with the other factors set forth in
4 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
5 of the offense; (2) the history and characteristics of the defendant; (3) the need for the
6 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
7 provide just punishment for the offense; (4) the need for the sentence to afford adequate
8 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
9 further crimes of the defendant; (6) the need to provide the defendant with educational and
10 vocational training, medical care, or other correctional treatment in the most effective
11 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
12 and (9) the need to avoid unwarranted sentence disparity among defendants involved in
13 similar conduct who have similar records. Accordingly, Defendant understands and
14 acknowledges that:

15 a. The Court will determine his applicable Sentencing Guidelines range
16 at the time of sentencing;

17 b. After consideration of the Sentencing Guidelines and the factors in
18 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
19 maximum term authorized by law;

20 c. The Court is not bound by any recommendation regarding the
21 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
22 range offered by the parties or the United States Probation Department, or by any
23 stipulations or agreements between the parties in this Plea Agreement; and

24 d. Defendant may not withdraw a guilty plea solely because of the
25 sentence imposed by the Court.

26 **8. Ultimate Sentence.** Defendant acknowledges that no one has promised or
27 guaranteed what sentence the Court will impose.

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1 **9. Statement of Facts.** The parties agree on the following facts. Defendant
2 admits he is guilty of the charged offense.

3 Beginning at a time unknown, and continuing until on or about December
4 15, 2011, Defendant GURJIT SINGH SANDHU knowingly and voluntarily entered
5 into an agreement with co-defendants Narminder Kaler, Jasmin Klair, and others, to
6 transport and distribute controlled substances in Western Washington for profit.
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8 In furtherance of this agreement, on December 15, 2011, Klair picked up 9
9 kilogram-sized bricks of suspected cocaine in Burlington, Washington. Also in
10 furtherance of this agreement, that same day the defendant and Kaler attempted to
11 pick up the same nine kilograms of suspected cocaine at a hotel in Whatcom
12 County, Washington, with the intention that it be re-distributed, but when they
13 attempted to do so, the cocaine was seized by law enforcement and SANDHU and
14 Kaler were arrested.
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16 The seized substance in brick form later tested positive for cocaine.
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18 **10. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
19 the United States Attorney's Office for the Western District of Washington agrees to
20 dismiss Count 3 at the time of sentencing, and agrees not to prosecute Defendant for any
21 additional offenses known to it as of the time of this Agreement that are based upon
22 evidence in its possession at this time, and that arise out of the conduct giving rise to this
23 investigation. In this regard, Defendant recognizes the United States has agreed not to
24 prosecute all of the criminal charges the evidence establishes were committed by
25 Defendant solely because of the promises made by Defendant in this Agreement.
26 Defendant agrees, however, that for purposes of preparing the Presentence Report, the
27 United States Attorney's Office will provide the United States Probation Office with
28 evidence of all conduct committed by Defendant.

29 Defendant agrees that any charges to be dismissed before or at the time of
30 sentencing were substantially justified in light of the evidence available to the United
31 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
32 with a basis for any future claims under the "Hyde Amendment," Pub.L. No. 105-
33 119(1997).

34 **11. Immigration Consequences.** Defendant understands that, as a non-citizen
35 of the United States, entering a guilty plea may have consequences regarding his
36 immigration status. Certain crimes are deportable offenses, and a plea of guilty to any
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1 such crime may subject the Defendant to automatic deportation and removal from the
2 United States. See 8 U.S.C. § 1227(a)(2). Defendant affirms that he has been advised of
3 the potential immigration consequences that may result from the entry of the guilty plea(s)
4 contemplated by this agreement and is prepared to proceed with his guilty plea(s)
5 regardless of any immigration consequences that may result from guilty plea(s), even if
6 such consequences include automatic deportation and removal from the United States.

7 **12. Sentencing Factors**

8 The parties agree that the following Sentencing Guidelines provisions apply
9 to this case:

10 a. A base offense level of 32. The defendant conspired to distribute at
11 least 5 kilograms but less than 15 kilograms of cocaine, pursuant to
12 USSG §2D1.1(c).

13 The parties agree that the Defendant qualifies for a safety-valve adjustment under 18
14 U.S.C. § 3553(f)(1)-(5) and USSG § 5C1.2(a). If, at the time of sentencing, the United
15 States continues to be satisfied that Defendant has met the requirements for a safety-valve
16 adjustment, the parties agree that Defendant will be eligible for a two-level reduction
17 under USSG 2D1.1(b)(16). Defendant understands that the Court will ultimately decide
18 whether Defendant qualifies for any sentencing adjustment that comports with the safety
19 valve provisions. The parties agree they are free to argue the application of any other
20 provisions of the United States Sentencing Guidelines. Defendant understands, however,
21 that at the time of sentencing, the Court is free to reject these stipulated adjustments, and is
22 further free to apply additional downward or upward adjustments in determining
23 Defendant's Sentencing Guidelines range.

24 **13. Acceptance of Responsibility.** The United States acknowledges that if
25 Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG §
26 3E1.1(a), and if the offense level is sixteen (16) or greater, his total offense level should be
27 decreased by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because he has
28 assisted the United States by timely notifying the authorities of Defendant's intention to

1 plead guilty, thereby permitting the United States to avoid preparing for trial and
2 permitting the Court to allocate its resources efficiently.

3 **14. Forfeiture.** Defendant agrees to forfeit to the United States immediately all
4 of Defendant's right, title and interest in any and all property, real or personal, that was
5 used, or intended to be used, in any manner or part, to commit or to facilitate the
6 commission of the conspiracy to distribute cocaine (Count 1).

7 **15. Forfeiture of Contraband.** Defendant also agrees that if any firearms or
8 illegal contraband were seized by any law enforcement agency from the possession of
9 Defendant, or that were in the direct or indirect control of Defendant, then he consents to
10 the administrative forfeiture, official use and/or destruction of said firearms or contraband
11 by any law enforcement agency involved in the seizure of these items.

12 **16. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that if
13 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
14 Agreement and Defendant may be prosecuted for all offenses for which the United States
15 has evidence. Defendant agrees not to oppose any steps taken by the United States to
16 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
17 Agreement. Defendant also agrees that if Defendant is in breach of this Plea Agreement,
18 Defendant has waived any objection to the re-institution of any charges in the Indictment
19 that were previously dismissed or any additional charges that had not been prosecuted.

20 Defendant further understands that if, after the date of this Agreement,
21 Defendant should engage in illegal conduct, or conduct that is in violation of his
22 conditions of release (examples of which include, but are not limited to: obstruction of
23 justice, failure to appear for a court proceeding, criminal conduct while pending
24 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,
25 Probation Officer, or Court), the United States is free under this Agreement to file
26 additional charges against Defendant or to seek a sentence that takes such conduct into
27 consideration by requesting the Court to apply additional adjustments or enhancements in
28 its Sentencing Guidelines calculations in order to increase the applicable advisory

1 Guidelines range, and/or by seeking an upward departure or variance from the calculated
2 advisory Guidelines range. Under these circumstances, the United States is free to seek
3 such adjustments, enhancements, departures, and/or variances even if otherwise precluded
4 by the terms of the plea agreement.

5 **17. Waiver of Appeal.** As part of this Plea Agreement and on the condition that
6 the Court imposes a custodial sentence that is within or below the Sentencing Guidelines
7 range (or the statutory mandatory minimum, if greater than the Guidelines range) that is
8 determined by the Court at the time of sentencing, Defendant waives to the full extent of
9 the law:

- 10 a. any right conferred by Title 18, United States Code, Section 3742 to
11 appeal the sentence, including any restitution order imposed; and
12 b. any right to bring a collateral attack against the conviction and
13 sentence, including any restitution order imposed, except as it may
14 relate to the effectiveness of legal representation.

15 Furthermore, this waiver does not preclude Defendant from bringing an appropriate
16 motion pursuant to 28 U.S.C. § 2241, to address the conditions of his confinement or the
17 decisions of the Bureau of Prisons regarding the execution of his sentence.

18 If Defendant breaches this Plea Agreement at any time by appealing or
19 collaterally attacking (except as to effectiveness of legal representation) the conviction or
20 sentence in any way, the United States may prosecute Defendant for any counts, including
21 those with mandatory minimum sentences, that were dismissed or not charged pursuant to
22 this Plea Agreement.

23 **18. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
24 this Plea Agreement freely and voluntarily and that no threats or promises, other than the
25 promises contained in this Plea Agreement, were made to induce Defendant to enter this
26 plea of guilty.

27 **19. Statute of Limitations.** In the event this Agreement is not accepted by the
28 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,

1 the statute of limitations shall be deemed to have been tolled from the date of the Plea
2 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea
3 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of
4 the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

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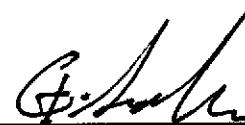
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1 **20. Completeness of Agreement.** The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.
3 This Agreement binds only the United States Attorney's Office for the Western District of
4 Washington. It does not bind any other United States Attorney's Office or any other office
5 or agency of the United States, or any state or local prosecutor.

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7 Dated this 9th day of May, 2012.
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11 
12 GURJIT SINGH SANDHU
13 Defendant

14 
15 JEFFREY ROBINSON
16 Attorney for Defendant

17 
18 SARAH VOGEL
19 Assistant United States Attorney

20 
21 JERROD C. PATTERSON
22 Assistant United States Attorney